

11.10.2023

ML. 7

Court No. 29

Suvayan

(Allowed)

C.R.M. (A) 4095 of 2023

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed in connection with **Sankrail** P.S. Case No. **1049 of 2022** dated **11.10.2022** under Sections **302/120B** IPC read with Section **25(1B)(a)** of the Arms Act corresponding to G.R. Case No. **5775 of 2022** pending before the learned CJM, Howrah.

And

In the matter of: **Partha Sarathi Dey @ Sanu**

....petitioner.

Mr. Kallol Mondal
Mr. Krishan Ray
Mr. Souvik Das
Mr. Anamitra Banerjee

...for the petitioner.

Mr. Sudip Ghosh
Mr. Bitasok Banerjee

...for the State.

1. Heard learned Counsel for both the parties.
2. Out of the two accused persons one is stated to have been arrested in the meantime. Death of the deceased is caused by gun shot injury.
3. On perusal of the postmortem report, we find that the shot has been fired on the deceased from a close range. So far as the present petitioner is concerned the basis of implication is stated to be the discovery statement of the co-accused purported to have been recorded under Section 27 of the Evidence Act and such statement of the co-accused as recorded under Section 161 Cr.P.C.
4. Learned Counsel for the petitioner submits that there are also other circumstances to connect the petitioner. Those circumstances are stated to be rivalry for 'satta' business between the petitioner and the deceased but that also is found to be a part of the discovery statement of the co-accused. There

is also assertion regarding demand of Rs. 2 lakhs by the petitioner and the co-accused from the deceased prior to Durga Puja last year. But that fact is also a part of the discovery statement of the co-accused.

5. We do not find any independent evidence in that regard, though charge-sheet has already been filed in the meantime.
6. In view of such fact and especially filing of charge-sheet, we do not find any justification for custodial interrogation of the present petitioner.
7. Admittedly, there are some record of past criminal antecedent against the petitioner but in all those cases the petitioner is stated to have been released on bail and in no case he has yet been convicted.
8. Regard being had to facts and submissions, factum of permanent residence of the petitioner, nature of allegation, nature of evidence and completion of investigation, it is directed that the petitioner shall surrender before the learned Chief Judicial Magistrate, Howrah within 15 days from today in the G.R. case No. 5775 of 2022 arising out of aforesaid P.S. case.
9. On his appearance and application for bail the petitioner shall be released on bail on such terms and conditions as deemed just and proper in the facts and circumstances of the case including the conditions that:
 - (i) The petitioner shall appear before the learned Trial Court on each date of substantive hearing subject to the provision of Section 317 Cr.P.C.
10. The learned CJM, Howrah is directed to act upon the server

copy of this order, if required.

11. Accordingly, the prayer for the anticipatory bail is allowed.
12. The application being **CRM (A) 4095 of 2023** is disposed of.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)

